

LIST OF EXHIBITS

<u>Paragraph</u>	<u>Exhibit</u>	<u>Description</u>
1.1	1	Site Map [to be added]
1.6	2	Lease Premises Legal Description [including all rights of access to Premises of adjoining property owners] [To be added]
3.2.1(C)(2)	3	Ott and Parma Rehabilitation Parcels Legal Description
1.8.2(B)(2)	4	Schedule of Performance [To be added]
4.1	5	Scope of Development
3.2.1(B)(19)	6	Additional Items of Income and Revenue to be excluded from Gross Operating Revenue [To be added prior to Close of Escrow]
3.2.2(A)(2)	7	List of Local Tenants [To be added prior to Close of Escrow]
9.1.1(B)	8	Project Costs [To be established at the end of the Base Year]
3.2.1(A)	9	Alternative Rental Calculation



Architectural Firm  
1000 North Main Street  
San Francisco, CA 94104  
415.774.1000

PASEO NUEVO  
SANTA BARBARA, CA

DEVELOPER

Developer Corporation

800 Broadway Street

San Francisco, CA 94104

OWNER

Public Service Association

CONSULTING DESIGN ARCHITECTS

Paul/Grubbs

DATE: JANUARY 25, 1999

DEVELOPER

GROUND LEASE

EXHIBIT 1

SITE MAP

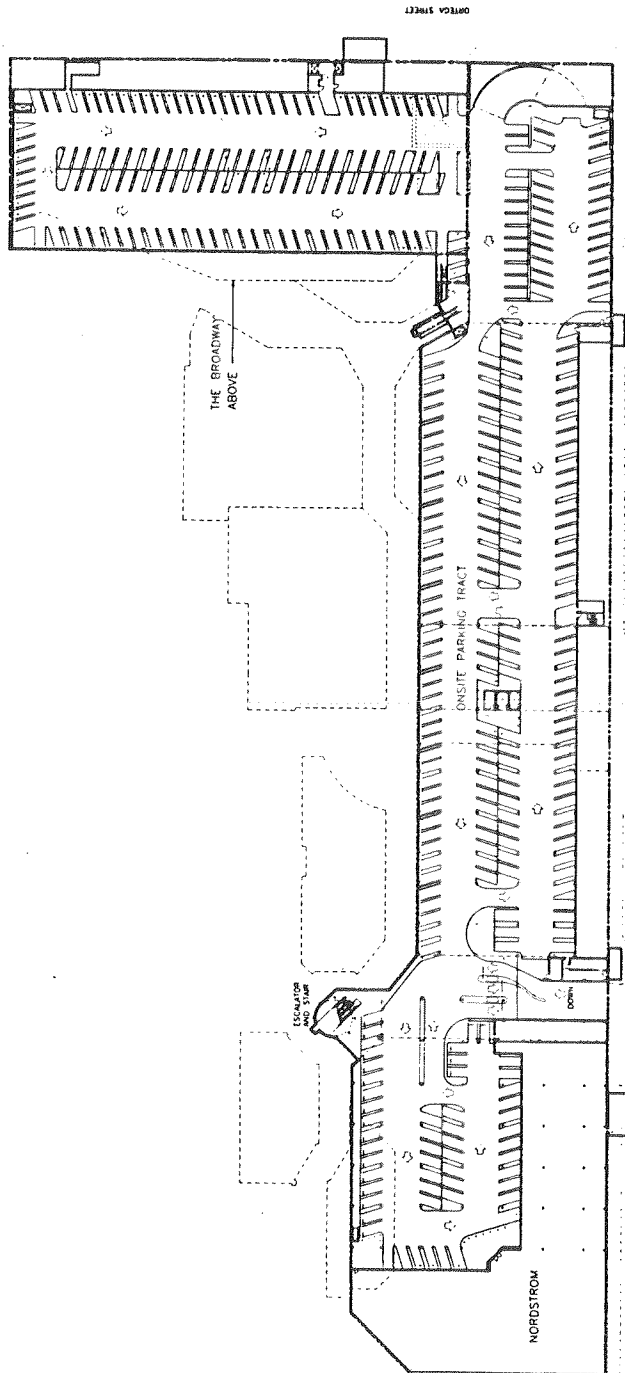
Scale: 1" = 100' / 100'

Sheet No. 000012

DATE: 1/25/99

PAGE 1 OF 3

SIXTH STREET



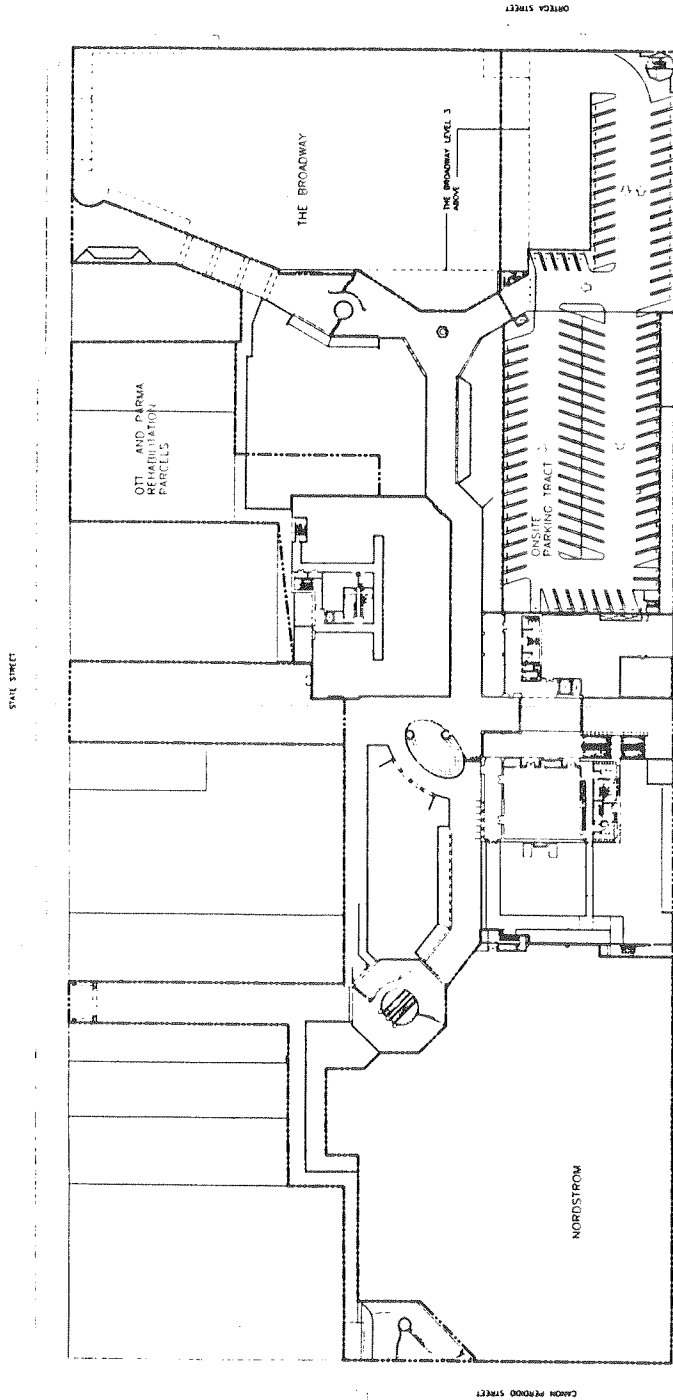
CANYON PERIOD STREET

EXHIBIT 1

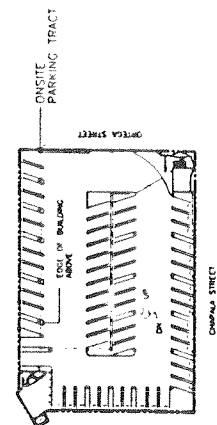
1 of 3



DE LA GUERRA PLACÉ



LEVEL 2



LEVEL 1.5

EXHIBIT 2

DEVELOPER

LEGAL DESCRIPTION

Parcels 2 and 12 of Parcel Map No. 20,504 in the City of Santa Barbara, County of Santa Barbara, State of California, as per map recorded in Book \_\_\_\_\_, Pages \_\_\_\_\_ through \_\_\_\_\_, inclusive of Parcel Maps, in the office of the County Recorder of said County.

EXCEPTING from a portion of said land all oil, gas and mineral substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in various documents of record.

Exhibit 3

Rehabilitation Parcel

The interest of Santa Barbara Associates in the following real property under that certain lease dated March 15, 1988 by and between Santa Barbara Associates, as tenant, and Richard A. Berti, Maxwell B. Sanders, Morris M. Jurkowitz, Esperanza Investments, a California limited partnership and Old Town Mall, a California limited partnership, as landlord, a Memorandum of which was recorded May 6, 1988, as Instrument No. 88-026585 in the Official Records of Santa Barbara County, California, as amended by First Amendment to Memorandum of Lease recorded concurrently herewith, which leasehold interest is hereby subjected to the terms and conditions of the REA:

All those portions of City Block 193 in the City of Santa Barbara, County of Santa Barbara, State of California, according to the Official Map thereof, described as follows:

PARCEL ONE:

Beginning at a point on the Southeasterly line of De la Guerra Street, distant thereon 163.45 feet Southwesterly from the most Northerly corner of said block; thence Southwesterly along the Southeasterly line of said De la Guerra Street, 277.00 feet, more or less, to the intersection of said street line with the Northeasterly line of Chapala Street as said last mentioned street line existed on July 1, 1963; thence Southeasterly along the Northeasterly line of said Chapala Street hereinabove referred to, 199.35 feet, more or less, to a point on the Northwesterly line of "Parcel No. 6" so described in the Deed to Parma Company, a corporation recorded March 20, 1920 in Book 181, Page 101 of Deeds, records of said County; thence Northeasterly, along the Northwesterly line of said "Parcel No. 6" of said Parma Company tract of land, 215 feet, more or less, to the most Northerly corner of said "Parcel No. 6", and a point on the Southwesterly line of "Parcel No. 5" in said Deed to Parma Company hereinabove referred to; thence along the Southwesterly and Northwesterly lines of said "Parcel No. 5" of said Parma Company tract of land, the following courses and distances; Northwesterly, 13.67 feet to the most Westerly corner thereof; and Northeasterly, at right angles, 225 feet to the most Northerly corner thereof and a point on the Southwesterly line of State Street; thence Northwesterly, along the Southwesterly line of said State Street, 81.05 feet, more or less, to the most Easterly corner of the tract of land described in the Deed to David C. Williams, recorded January 3, 1906 in Book 113, Page 130 of Deeds, records of said County; thence along the Southeasterly and Southwesterly lines of said Williams tract of land the following courses and distances: Southwesterly, 152.02 feet to the most Southerly corner thereof; and Northwesterly, 102.81 feet to the point of beginning.

EXCEPTING therefrom that portion of City Block 193, in the City of Santa Barbara, County of Santa Barbara, State of California, being a portion of the land described in a deed recorded as Instrument No. 78-29955 of Official Records, in the office of the County Recorder of said County, more particularly described as follows:

Commencing at the Northerly corner of said City Block 193; thence South  $41^{\circ}29'45''$  West, 264.61 feet along the Northwesternly line of said City Block 193, to the True Point of Beginning; thence 1st, South  $48^{\circ}44'27''$  East, 183.10 feet; thence 2nd, North  $41^{\circ}28'20''$  East, 38.66 feet to an angle point in the Southeasterly line of the land described in said deed; thence 3rd, South  $48^{\circ}30'20''$  East, 13.68 feet along said last mentioned Southeasterly line to an angle point in said line; thence 4th, South  $41^{\circ}03'25''$  West, 215.18 feet along said last mentioned Southeasterly line to the most Southerly corner of the land described in said deed, being also the Southwesterly line of said City Block 193; thence 5th, North  $48^{\circ}30'40''$  West, 198.41 feet along said Southwesterly line to the said Northwesternly line; thence 6th, North  $41^{\circ}29'45''$  East, 175.78 feet along said Northwesternly line to the True Point of Beginning.

EXCEPTING therefrom that portion of City Block 193, in the City of Santa Barbara, County of Santa Barbara, State of California, according to the official map thereof, more particularly described as follows:

Commencing at the Northerly corner of said Block 193; thence Southeasterly along the Northeasterly line of said Block 193, South  $48^{\circ}30'00''$  East a distance of 182.98 feet; thence South  $41^{\circ}28'20''$  West a distance of 120.58 feet to the True Point of Beginning; thence North  $48^{\circ}11'08''$  West a distance of 30.59 feet; thence South  $41^{\circ}30'00''$  West a distance of 103.80 feet; thence North  $48^{\circ}30'00''$  West a distance of 30.13 feet; thence South  $41^{\circ}30'00''$  West a distance of 33.97 feet; thence South  $86^{\circ}30'00''$  West a distance of 8.40 feet; thence South  $41^{\circ}30'00''$  East a distance of 66.73 feet; thence North  $41^{\circ}28'20''$  East a distance of 143.26 feet to the point of beginning.

#### PARCEL TWO:

All that real property in the City of Santa Barbara, County of Santa Barbara, State of California, being Parcels No. Five (5) and Six (6) in Block One Hundred Ninety-Three (193) of said City, as shown on the map accompanying the Commissioner's Report filed in the office of the Clerk of the Superior Court of the State of California, in and for the County of Santa Barbara, in the action for Partition entitled Maria Andonaegui Thompson vs. Frank Andonaegui and Hortensia Andonaegui Garcia, said Parcel No. 5 being described as follows:

Beginning at a point on the Southwesterly line of State Street, said point being distant Northwesternly 216.83 feet from the most Easterly corner of said Block 193; thence along said Southwesterly line of State Street Northwesternly 50.28 feet to a point at an iron stake  $\frac{3}{4}$  inches in diameter; thence at a right angle Southwesterly 225 feet to an iron stake  $\frac{3}{4}$  inches in diameter; thence at a right angle Southeasterly 53.39 feet to an iron stake  $\frac{3}{4}$  inches in diameter; thence deflecting  $90^{\circ}15'$  to the left in a Northeasterly direction 225.02 feet to the place of beginning.

Said Parcel Six being described as follows:

Commencing at an iron stake  $\frac{3}{4}$  inches in diameter on the Northeasterly line of Chapala Street, said stake being distant 210.3 feet in the Northwesternly direction from the South corner of City Block 193; thence along said Northeasterly line of Chapala Street, Northwesternly 41.35 feet to an iron stake  $\frac{3}{4}$  inches in diameter; thence deflecting  $89^{\circ}33'$  to the right, Northeasterly 225 feet to an iron stake  $\frac{3}{4}$  inches in diameter; thence deflecting  $90^{\circ}27'$  to the right, Southeasterly 39.72 feet to an iron stake  $\frac{3}{4}$  inches in diameter; thence deflecting  $09^{\circ}10'$  to the right, Southwesterly 225.02 feet to the place of beginning.

EXCEPTING therefrom that portion of City Block 193, in the City of Santa Barbara, County of Santa Barbara, State of California, being a portion of the land shown on the map recorded in Book 12, Page 119 of Maps, in the office of the County Recorder of said County, more particularly described as follows:

Commencing at the most Northerly corner of the land shown on said map, thence South  $41^{\circ}28'20''$  West, 120.58 feet along the Northwesternly line of the land shown on said map, being also the Southeastery line of the land described in the deed recorded as Instrument No. 78-29955 of Official Records, in the office of the County Recorder of said County, to the True Point of Beginning; thence 1st, South  $48^{\circ}11'08''$  East, 51.98 feet to the Southeastery line of the land shown on said map; thence 2nd, South  $40^{\circ}40'45''$  West, 104.31 feet along said last mentioned Southeastery line of an angle point in said line; thence 3rd, South  $40^{\circ}38'28''$  West, 215.19 feet continuing along said last mentioned Southeastery line to the most Southerly corner of the land shown on said map; thence 4th, North  $48^{\circ}30'40''$  West, 41.31 feet along the Southwesterly line of the land shown on said map, to the Southeastery line of said deed; thence 5th, North  $41^{\circ}03'25''$  East 215.18 feet along said last mentioned Southeastery line to an angle point in said line; thence 6th, North  $48^{\circ}30'20''$  West, 13.68 feet, continuing along said last mentioned Southeastery line to an angle point in said line; thence 7th, North  $41^{\circ}28'20''$  East, 104.59 feet, continuing along said last mentioned Southeastery line to the True Point of Beginning.

PARCEL THREE:

That portion of City Block 193, in the City of Santa Barbara, County of Santa Barbara, State of California, according to the official map thereof, and that portion of De La Guerra Street vacated by Resolution of the City Council of Santa Barbara recorded December 15, 1988 as Instrument No. 88-080924, in the office of the County Recorder of said County, more particularly described as follows:

Beginning at a point in the Northwesternly line of said Block 193, said point being distant S.  $41^{\circ}29'45''$  W., 176.61 feet from the northerly corner thereof; thence Northwesternly along the Northeastery line of said Resolution for Vacation of De La Guerra Street North  $48^{\circ}30'00''$  West, 25.98 feet; thence South  $41^{\circ}30'00''$  East a distance of 34.29 feet; thence South  $48^{\circ}30'00''$  East a distance of 2.00 feet; thence South  $41^{\circ}30'00''$  East a distance of 65.33 feet; thence South  $48^{\circ}30'00''$  East a distance of 128.24 feet; thence North  $86^{\circ}30'00''$  East a distance of 17.13 feet; thence North  $48^{\circ}44'27''$  West a distance of 116.37 feet; thence North  $41^{\circ}29'45''$  East a distance of 88.00 feet to the point of beginning.

EXCEPTING from a portion of said land all oil, gas and mineral substances, together with the right to explore for and extract such substances, provided that the surface opening of any well, hole, shaft or other means of exploring for, reaching or extracting such substances shall not be located within the Central City Redevelopment Project and shall not penetrate any part or portion of said project area within 500 feet of the surface thereof, as reserved in the Final Order of Condemnation recorded January 15, 1988 as Instrument No. 88-002837 of Official Records.



## SCHEDULE OF PERFORMANCE

All reference made herein to Schedule of Performance as attached hereto as Exhibit "4" shall be deemed to mean the Schedule of Performance as attached to the REA as Exhibit "E."

## SCOPE OF DEVELOPMENT

### ARTICLE I

#### PROJECT CHARACTERISTICS

The Paseo Nuevo Retail Center ("Retail Center") will be a multi-use retail complex developed in one phase, with approximately 719,000 square feet of department stores, supporting retail shops ("Paseo Shops"), restaurants, facilities accommodating the arts (the "Arts Complex"), a parking garage (the "Lot 1 Parking Structure"), and open space uses. Said total of 719,000 square feet of development will include approximately 409,000 square feet of newly constructed building area, approximately 1,000 square feet of mall offices, 11,000 square feet in the Arts Complex, 224,000 square feet in the Lot 1 Parking Structure and 72,000 square feet of public open space.

The Retail Center shall include approximately 305,000 square feet of new major department store space and 104,000 square feet (including covered service corridors) of supporting Paseo Shops. One department store will be located at the northwest corner of State Street and Ortega Street (the "South Department Store") and include approximately 136,000 square feet of leasable space. The other department store will be located at the southeast corner of West Canon Perdido Street and Chapala Street (the "North Department Store") and include approximately 169,000 square feet of leasable space. The Paseo Shops coupled with a pedestrian walkway system will connect the two major department stores ("Majors").

Public parking providing 572 spaces will be located in the Retail Center and public parking of 1,104 spaces (to be provided by Agency and/or City) shall be located at two other nearby locations.

A portion of De la Guerra Street and Fernald Avenue will be vacated, closed and incorporated into the Retail Center as shown on the Site Map and a route along such portion of De la Guerra shall remain open to pedestrian traffic as provided in the Developer Lease. The remainder of De la Guerra will be closed to vehicular traffic, except service vehicle use, and limited to pedestrian traffic. Developer will have an easement over the non-vacated portion of De la Guerra Street for pedestrian and service vehicle ingress and egress, utility placement, landscaping and construction, maintenance and repair of non-building improvements.

If the Developer complies with Section 104.2 of the DDA, the Developer may add 52,000 square feet of retail and office space to the Retail Center. Said total of 52,000 square feet

shall include approximately 17,000 square feet (includes 7,000 square feet of the remaining Ott parcel and 10,000 square feet of the Parma parcel) of rehabilitated property, approximately 30,000 square feet (the middle one-third of the Ott parcel) of new building space which replaces existing space, and approximately 5,000 square feet of new office space which may be added to the South Department Store to increase the South Department Store to 141,000 square feet of floor area. The approximately 30,000 square feet of new building space shall include approximately 19,000 square feet of retail space and approximately 11,000 square feet of office space.

The square footages set forth in this Scope of Development are approximate (and rounded to the nearest one-thousand) and are based on the design of the Retail Center as of the date of the DDA. Additionally, square footages for the Paseo Shops reflect gross leasable area plus covered service corridors. As the design of the Retail Center is finalized, the square footages may change.

## ARTICLE II

### ACQUISITION OF SITE

Agency shall acquire the Site pursuant to the terms and conditions of the DDA.

## ARTICLE III

### ALLOCATION OF COSTS AND RESPONSIBILITIES IN CONNECTION WITH DEVELOPMENT

In general, and subject to the terms of the DDA, the Agency will be acquiring all of the parcels on the Site and ground leasing portions of such parcels to Developer and the Majors. Thereafter, and generally, Developer will be constructing the common areas, the Arts Complex, and Paseo Shops, each of the Majors will be constructing their respective department stores and the Developer, together with each of the Majors, will be constructing the Lot 1 Parking Structure. Agency (or the City), pursuant to the Parking Agreement and Parking Covenants, will be constructing the Lot 2 and Lot 10 Parking Structures. All such construction shall be made and performed at the times and in the manner set forth in the Reciprocal Easement Agreement (REA) and Parking Covenants substantially in the form approved by the parties and referred to in the DDA and Parking Agreement.

Although generally the Developer (and the Majors with respect to their department stores) will be responsible for the costs and expenses of the new construction on the Site (and for all or a portion of the cost of construction of the Lot 1 Parking Structure, more particularly described below),

as a result of the agreements between Agency and Developer relating to the consequences of the condemnation and the requirement for certain demolition, restoration of buildings on parcels for which only a portion of such buildings and parcels are being taken by the Agency by condemnation or negotiation for the acquisition of the Site (referred to as "partial-take parcels") and utility relocations and as a result of the various agreements between Developer and Agency relating to those certain Planning Commission conditions known as "Conditions of Approval, Downtown Revitalization Project, Paseo Nuevo, April 15, 1987 ("Conditions of Approval"), Developer and Agency would like to set forth their understanding with respect to the allocation of costs and responsibilities with respect to development of the Retail Center, the Lot 1 Parking Structure, the Lot 2 and Lot 10 Parking Structures, street improvements surrounding the Site, certain traffic improvements required pursuant to the Conditions of Approval and certain of the other Conditions of Approval. This Scope of Development sets forth the respective responsibilities and sharing of costs and expenses with respect to development of the Site and compliance with Conditions of Approval.

#### ARTICLE IV

##### DEMOLITION, RESTORATION, UTILITY RELOCATION; ENGINEERING CONDITIONS; DESIGN, ARCHITECT/LANDSCAPE CONDITIONS

A. Demolition. Except for the partial-take parcels, Agency shall demolish all existing buildings and improvements on the Site (except for certain public utilities) and on the parcel upon which the Lot 1 Parking Structure is to be constructed at the time required by the Schedule of Performance, but in any event prior to the Close of Escrow of the Developer Lease pursuant to the DDA. Subsequent to close of escrow, Developer shall demolish all improvements and structures on the partial-take parcels. Demolition shall include all below surface and subsurface improvements, structures and obstructions which would interfere with construction of improvements contemplated hereunder and shall include improvements on the full-take parcels and the partial-take parcels. All such demolition is hereinafter referred to as "Demolition." Developer shall be responsible for grading and soil compaction on any parcel where demolition is done at Developer's expense and such work shall not be included within the definition of Demolition.

B. Restoration. Subsequent to Close of Escrow, Agency shall restore the buildings and improvements on the partial-take parcels not being taken or acquired by Agency. Prior to the Close of Escrow, Agency will enter into a separate contract with Developer's architect for the preparation of plans and specifications for (i) the demolition of the

improvements on the partial-take parcels, and (ii) the restoration of the portion of the improvements not taken by Agency. Agency shall cause Developer's architect to prepare such plans and specifications in consultation with Developer, Agency and the owners of the partial-take parcels, and to submit such plans and specifications to Developer for approval within the time specified on the Schedule of Performance. Agency will pay the cost of preparation of such plans directly to the architect, and such costs shall constitute a portion of the demolition costs hereunder. Prior to the Close of Escrow, Agency shall obtain all permits and governmental approvals required for the demolition of the improvements on the partial-take parcels and the restoration of the Improvements on the portion of the partial-take parcels not taken. At the request of Agency, Developer shall cause his contractor to undertake with Agency to contract for the restoration of the Improvements on the portion of the parcels not taken in accordance with the plans and specifications therefore prepared by Developer's architect. Such restoration shall be coordinated with the construction of the Improvements on the Lease Parcels. The restoration specified herein is hereinafter referred to as "Restoration."

C. Utility Relocation. Utility Relocation (as defined below) shall be performed as follows: prior to the Close of Escrow, Developer may perform, or cause the appropriate public utility to perform utility relocation on behalf of Agency. Agency shall grant Developer or the appropriate utility company a license to enter onto the Project Site to perform the utility relocation. Any relocation work performed after the Close of Escrow shall be performed by Developer, or by the appropriate public utility on behalf of Developer.

As used herein, the term "Utility Relocation" shall mean the following: Developer shall, or shall cause the appropriate utility company to, remove, relocate, replace or upgrade utilities as follows ("Utility Relocation"):

D. Design, Architect/Landscape Conditions. The following design conditions and architect/landscape conditions shall be performed and/or constructed by Developer: To the extent necessary, the City and Developer will enter into a street agreement and the Cooperation Agreement between Agency and City shall provide for the execution of a street agreement to allow Developer to perform such work.

E. Cost Allocations. The costs and expenses for Demolition, Restoration, Utility Relocation, Design, Architect/Landscape Conditions shall be allocated as follows:

1. Developer shall pay up to Three Hundred Thousand Dollars (\$300,000) for the Engineering Conditions.

2. Except for payments or costs allocated to Developer in 1 above, Agency shall pay or reimburse Developer in accordance with the procedure set forth in Paragraph 4 below for all of the costs of Demolition, Restoration, Utility Relocation or Design, Architect/Landscape Conditions, up to a total of Three Million Ninety-three Thousand Dollars (\$3,093,000), less the demolition costs incurred by Agency as provided in Article IV, Section A above.

3. If the aggregate of the costs required to be paid by Agency pursuant to Paragraph 2 above exceed Three Million Ninety-three Thousand Dollars (\$3,093,000), Developer shall pay or reimburse Agency the additional amount in excess of Three Million Ninety-three Thousand Dollars (\$3,093,000); provided, however, that the amount of such payment or reimbursement by Developer shall not exceed Three Million Dollars (\$3,000,000) in the aggregate.

4. In connection with any costs and expenses related to Demolition, Restoration, Utility Relocation (including Engineering Conditions), and Design, Architect/Landscape Conditions, each of the parties hereto shall certify to the other the costs and expenses paid or incurred in connection with the improvements or work performed by that party. The other party shall have the right to review and inspect all books and records related to such costs and expenses. In addition, at the Close of Escrow for the Developer Lease, each of the parties shall prepare and deliver to the other preliminary budgets (and final budgets to the extent feasible at such time) and when available construction contracts for the work setting forth the costs and expenses which are expected to be paid or incurred by the party requiring or electing to perform such work. If the work is to be performed before the Close of Escrow, such budget and construction contracts shall be submitted prior to commencement of any such work. Developer will not be obligated to perform any work until subsequent to Close of Escrow. Each of such budgets and construction contracts shall be reviewed by the other party and shall be subject to their respective reasonable approval.

If one party is to perform work (the "Performing Party") at the expense of the other party (the "Paying Party"), the Paying Party shall reimburse the Performing Party for such work on a monthly basis by paying to the Performing Party an amount equal to ninety percent (90%) of the costs incurred by such Performing Party as evidenced by a certificate prepared by the Performing Party's architect delivered to the Paying Party stating that the amount requested has been paid or is then due and payable and is properly a part of the costs of performing such work, and that there are no mechanic's liens or similar liens for labor or material supplied to such work, or that such liens have been paid in full or will be paid in

full with funds being released. Upon receipt by the Paying Party of a certificate from the Performing Party's architect stating that the work has been completed and that there are no mechanic's liens or similar liens for labor or materials supplied to such work, and either the period within which a lien may be filed has expired or proof is submitted to the Paying Party that all costs of such work have been paid in full or will be paid in full with funds being released, then the Paying Party shall pay to the Performing Party the final monthly reimbursement and all amounts retained by the Paying Party from previous monthly reimbursements to the Performing Party.

Any work performed by one party at the cost of the other party shall be contracted pursuant to a procedure designed to obtain the lowest responsible bid, subject to the reasonable approval of the party bearing the cost of such work.

5. Agency hereby acknowledges receipt of Developer's estimate of the cost of Restoration. Agency represents and warrants that it has no knowledge that the Restoration costs will exceed the amount budgeted by Developer, nor has Agency received any notice nor does Agency have any knowledge that the City or any department thereof or any other governmental agency having or claiming jurisdiction thereover, will require Restoration to a substantially greater extent than set forth in Developer's estimate so delivered to Agency. Developer acknowledges that Agency has not performed any independent investigation with respect to the costs of Restoration and the foregoing representation and warranty by Agency is not intended to constitute a statement that the Restoration which is expected to be performed will cost more or less than Developer's estimate.

6. If any Restoration is to be performed as a result of negotiation with an owner or party having interest in a parcel, both Agency and Developer shall be entitled to engage in and approve such negotiated Restoration to the extent that the costs thereof could be allocated between Agency and Developer as a result of such negotiations.

## ARTICLE V

### IMPROVEMENTS - RETAIL, ARTS, PARKING

The Developer shall develop and construct, or cause the development and construction of the following improvements on the Site:

#### A. Retail Stores

The North and South Department Stores totaling approximately 305,000 square feet (or 310,000 square feet if

the Rehabilitation Parcels are incorporated into the Retail Center) of leasable floor area and supportive Paseo Shops totaling approximately 104,000 square feet (or 123,000 square feet if the Rehabilitation Parcels are incorporated into the Retail Center) of building area shall be developed in the Retail Center.

The North Department Store shall be a four-story structure containing approximately 169,000 square feet of floor area located at the corner of West Canon Perdido Street and Chapala Streets. The South Department Store shall be a three-story structure containing approximately 136,000 square feet (or 141,000 square feet if the Rehabilitation Parcels are incorporated into the Retail Center) of floor area. The Paseo Shops (which may include up to 15,000 square feet for restaurant use) shall be constructed between the two major department stores.

#### B. Arts Complex and Open Space

A performing and visual Arts Complex with a total of 11,000 square feet of building area shall be developed in the Retail Center, which shall include 5,000 square feet of exhibition and support space, approximately 5,500 square feet of theater and support space and approximately 500 square feet for public restrooms which will include 6 showers to be used jointly by the Arts Complex and the Retail Center. The Retail Center shall include the development of approximately 74,000 square feet of open space uses which will include pedestrian walkways, public courtyards and plazas.

The Arts Complex will be clustered at the second level of the Retail Center's intersection with De la Guerra Street. Patrons will have adjacent parking at the roof level and elevator service from the lower level parking and the street level. The Arts Complex is based on the concept that programs and facilities for programs are more valuable to Santa Barbara than a major work of art. The exhibition space shall have shared toilets and lobby facilities with the adjacent theater space. The theater space will provide for approximately 150 people in moveable seating.

In addition to the indoor facilities, there will be public plazas at State Street, and three major courtyards within the Retail Center. The largest of these shall be at De la Guerra Street where a small amphitheater seating approximately 200 people will be located for performance or visual arts events, and which can also be used for retail promotion such as fashion shows or exhibits of products. Part of the space that is now De la Guerra Street at the side of the Balboa Building will become another plaza at State Street where shows and events can be staged.



C. Lot 1 Parking Structure.

In accordance with the REA, the Developer and Majors shall construct 572 spaces of subterranean and roof-top parking in the Retail Center along Chapala Street. Said parking shall be located in an integrated parking structure adjacent to the South Department Store and on levels above the retail level on the southwestern corner, and below the retail level on the western and southern sides between and under both department stores. The parking garage shall contain 41 bicycle parking spaces.

Developer shall pay all costs and expenses in connection with the construction of Lot 1 Parking Structure subject to contribution therefor from the Majors as set forth pursuant to a separate agreement. If a Downtown Parking Assessment Area is formed in accordance with the Parking Agreement, Agency shall contribute the sum of Four Million Dollars (\$4,000,000) towards the construction of the Lot 1 Parking Structure in accordance with the terms of and subject to the conditions set forth in the Parking Agreement and Parking Covenants.

ARTICLE VI

IMPROVEMENTS -- COMPLIANCE WITH  
PLANNING COMMISSION CONDITIONS OF APPROVAL

Except as set forth in the DDA and this Scope of Development, Developer shall construct the improvements on the Site at its own cost and expense (or at the cost and expense of the Majors pursuant to a separate agreement).

With respect to all other improvements and requirements related to the construction of the improvements on the Site, conditions to the issuance of the building permits and conditions to the issuance of the Certificates of Occupancy for the onsite improvements, as required by the Conditions of Approval, the same shall be performed or satisfied by and at the expense of the party required to perform the same in accordance with the Conditions of Approval, except as otherwise provided in the DDA or in this Scope of Development. For the purposes hereof, wherever the Conditions of Approval refer to the Owner, it shall mean the Agency, and wherever the Conditions of Approval refer to the Developer or Operator, it shall mean the Developer or the Majors as such obligations are agreed to pursuant to the separate agreement between Developer and the Majors or pursuant to the REA. Notwithstanding the foregoing, the allocation of responsibilities and costs with respect to the following specific Conditions of Approval, shall be allocated as follows:

A. Condition A-6. The Reciprocal Easement Agreement, Parking Agreement and Parking Covenants shall control the

obligations of the parties with respect to compliance with Condition A-6.

B. Condition A-7. The responsibilities and costs related to the performance of obligations set forth in Condition A-7 regarding Vehicle Use Disincentives shall be as set forth in the Transportation Systems Management Plan ("TSMP") to be approved by Developer, Agency and each of the Majors on or prior to execution of the DDA.

C. Condition E-3. Developer shall pay the first Seven Hundred Fifty Thousand Dollars (\$750,000) of the 1987 Downtown Transportation Improvement Fees pursuant to Resolution No. 87-030 applicable to the Site, and Agency shall pay the balance of such fee. Agency and the City, pursuant to the Cooperation Agreement, shall satisfy the funding mechanism and the scheduling conditions set forth in Condition E-3, at the sole cost and expense of the Agency or the City, and at no cost or expense to Developer. Agency agrees to satisfy said condition by providing for the same in the Cooperation Agreement to be executed concurrently with the DDA.

D. Conditions D-16, D-18 and D-19. Developer shall comply with conditions D-16 (solar), by the payment of an in-lieu fee, not to exceed One Hundred Thousand Dollars (\$100,000). Relative to D-19 (energy management), Developer will determine what energy management systems, if any, are necessary.

E. Condition 20. Agency shall pay all school fees, applicable to the development of the Site and the offsite parking garages.

F. Condition E-4. Developer will arrange for and administer the bidding process in connection with Condition E-4 (archeology) and Agency shall pay all of the costs and expenses related thereto.

## ARTICLE VII

### IMPROVEMENTS - LOT 2 AND LOT 10 PARKING STRUCTURES

Agency shall construct, or cause to be constructed, the Lot 2 and Lot 10 Parking Structures at the sole cost and expense of the Agency (or the City) at no cost or expense to the Developer, subject to the terms set forth in and the conditions of the Parking Agreement and the Parking Covenants and within the time period set forth in the Schedule of Performance.

## ARTICLE VIII

### ARCHITECTURE AND DESIGN

The Site shall be designed and developed as an integrated development with buildings having architectural excellence, both individually as well as in the context of the entire Retail Center.

The improvements to be constructed on the Site shall be of high architectural quality, well landscaped, and shall be effectively and aesthetically designed. The shape, scale of volume, exterior design, and exterior finish of each building, structure, and other improvement must be consonant with, visually related to, physically related to, and an enhancement to each other and to adjacent improvements within the area. The architecture and design of the Retail Center will continue the City's proud heritage of garden and Spanish-style design. The materials vocabulary for the Retail Center will continue the Santa Barbara tradition of plastered walls in shades of white with wood, plaster and/or stone accents. Colored awnings and a landscape rich with color will play off against the whites of the walls and the tile roofs. Paving will generally be of textured materials.

The Retail Center, sited within the historical heart of Santa Barbara, will create a Santa Barbara Spanish-style pedestrian paseo. It will incorporate interior courtyards with sparkling fountains and seating areas. The palm trees, flowering canopy trees, accent shrubs and vines are essential elements that play off against the simple white surfaces in this architectural style.

The Developer's plans, drawings and proposals submitted to the Agency for approval shall describe in reasonable detail the materials to be used for, and the architectural character of the Retail Center. All buildings and structures on the Site shall conform to the development standards set forth in the City Municipal Code.

The Retail Center, Lot 1 Parking Structure and Lots 2 and 10 Parking Structures shall be designed in such a way as to attain the following goals and objectives:

A. Share State Street's pedestrian traffic flow like other mid-block paseos as one of many special places;

B. Maintain a strong presence on State Street;

C. Emphasize all shopping at street level to avoid side-tracking pedestrian traffic volume with second level shops and retain the feeling and scale of the existing downtown paseo system;

D. Avoid single development image and maintain the Santa Barbara style of architecture and variety;

E. Avoid traffic concentrations by distributing parking areas to both sides of State Street in structures open to natural daylight and ventilation;

F. Integrate arts facilities with State Street retail.

## ARTICLE IX

### DEVELOPMENT STANDARDS

All development on the Site shall be in accordance with the development standards applicable to the C-2 Commercial Zone as set forth in the Zoning Ordinance contained in the Santa Barbara Municipal Code.

The following development standards shall also be applicable to the development of the Site in addition to the standards contained in the Municipal Code. Where conflicts occur, the more restrictive standards shall apply.

#### A. Building Location.

All buildings shall be located on the Site in conformance with the setback requirements established for the C-2 Commercial Zone in the Santa Barbara Municipal Code.

Buildings shall also be arranged to encourage pedestrian circulation between buildings and to promote a close visual and functional relationship between the buildings on the Site.

#### B. Building Construction.

All buildings shall be constructed in conformance with the Municipal Code and the latest adopted versions of the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code, Uniform Plumbing Code, National Electrical Code, and National Fire Protection Association Standards and in accordance with approved Construction Documents.

#### C. Signs.

All signs, including but not limited to advertising, building identification and directional signs, shall be designed in such a way as to contribute positively to the aesthetic environment of the Retail Center and shall be in conformance with the City's sign ordinance.

D. Landscaping.

The Developer shall maintain landscaping on the Site, within all public areas, within public rights-of-way, within all setback areas, and throughout the open space areas of the Site according to approved landscaping plans for the development. Preliminary and final landscaping plans shall be submitted to the Agency for review and approval.

Landscaping includes such materials as paving, trees, shrubs, and other plant materials, landscape containers, plaza furniture, topsoil preparation, automatic irrigation, landscape and pedestrian lighting, and fountains, pools or other water elements. The trees, shrubs and lawns on the Site will be maintained with automatic irrigation systems. Landscape and pedestrian lighting, fountains, benches, flag poles, and sculptures, and other landscaping will be installed where it is architecturally appropriate.

The landscaping concept shall be developed to complement the proposed structures, to provide a pleasing environment within the development, to promote the visual relationship of the Retail Center to adjacent development and to maintain Santa Barbara's heritage of Spanish-style garden and building design. Palm trees, flowering canopy trees, accent shrubs and vines, sparkling fountains and seating areas will be essential elements in the landscaping plans.

All plant material used on the Site shall be of appropriate size and scale to properly complement the buildings on the Site at the time of planting.

E. Parking.

The Lot 1 Parking Structure and the Lots 2 and 10 Parking Structures provided by Agency shall be sufficient for the Project.

F. Pedestrian Facilities/Amenities.

The development shall include a pedestrian circulation system which provides safe, efficient and convenient access to all buildings on the Site and to the associated plazas, courtyards and other outdoor spaces. The pedestrian walkways shall be clearly delineated by a distinctive paving pattern common to the entire development.

The development shall include public plazas and/or courtyards with appropriate landscaping and street furniture.

G. Cultural/Art Improvements.

In addition to the Arts Complex described in Article V.B., the Site may include improvements consisting of sculptures, paintings, murals, fountains, frescos, or other works of art produced by a professional artist. These improvements shall be placed in such a manner as to permit convenient viewing and enjoyment by the general public.

H. Utilities and Public Improvements.

The Developer shall provide, or cause to be provided, the construction and installation of all utilities on or for the Site. All utilities on the Site shall be underground or concealed within buildings. The cost of certain Utility Relocation is subject to cost allocation as set forth in Article III.

The Developer shall make any street repairs for damages caused by the Developer's construction. These repairs shall be at Developer's sole expense and shall be constructed in accordance with the technical specifications, standards, and practices of the City. The cost of certain street repairs is subject to cost allocation as set forth in Article III.

I. Loading and Service System.

Subject to the Conditions of Approval, off-street loading facilities shall be located in a manner to avoid interference with public use of sidewalks from the street. All off-street loading facilities shall be reasonably located and shall be constructed to comply with the Municipal Code. Off-street loading facilities must also be screened to the extent and in a manner approved by the Agency.

All State Street tenants who formerly had service access at their rear doors will continue to be provided with service in substantially the same area but vehicular access will be limited to the street areas. Service for all facilities will have access from Ortega, Chapala, West Canon Perdido, or De la Guerra Place Paseo.

J. Screening.

All permanent outdoor storage of materials or equipment shall be enclosed or screened to the extent and in the manner approved by the Agency.

K. Roofs.

On all buildings whose roof area is visible from street level, exposed duct work for heating and cooling, mechanical equipment and other roof structures shall be

screened from street level in a manner approved by the Agency. All roofs shall be treated in terms of architecture and color so that roofs are aesthetically pleasing when viewed from above.

#### ARTICLE X

##### EASEMENTS

The Agency and the Developer shall grant and permit all necessary and appropriate easements and rights for the development of the Site including but not limited to temporary construction easements and easements and rights of vehicular access, pedestrian access, parking, structural support, sanitary sewers, storm drains, water, electrical power, telephone, natural gas, etc.

#### ARTICLE XI

##### DEVELOPER CONSIDERATION

Nothing contained in this Scope of Development is intended to change Developer's obligations in connection with delivery of Developer's Consideration (which Agency intends to use to defray the costs of the public improvements contemplated by the DDA and required for the Project) or to make the loans described in the DDA in accordance with the terms of and subject to the conditions contained in the DDA. In addition, nothing herein shall obligate Developer for any payments or expenses for work described in this Scope of Development until after Close of Escrow of the Developer Lease.

ADDITIONAL ITEMS OF INCOME AND REVENUE  
TO BE EXCLUDED FROM GROSS OPERATING REVENUE

NONE



## LIST OF LOCAL TENANTS

[The list of local tenants that have entered into leases made in accordance with the Relocation and Local Tenant Preference Plan (Exhibit 11 of the DDA) will be added subsequent to Close of Escrow.]

## PROJECT COSTS

[To be established at the end of the Base Year]

Lessee Project Costs. Project Costs shall include the following costs, expenses or fees paid or incurred by the Lessee (or any of its partners) as "Developer" under the DDA or "Lessee" under the Lease through the Base Year defined in Lease Section 3.2.5:

1. Costs, expenses or fees prior to the execution of the DDA including without limitation all costs, expenses or fees for attorneys, architects, design professionals, engineers, soils analysts, environmental consultants, surveyors, cost estimators, economists, marketing and leasing professionals, and other consultants in connection with the:
  - (i) negotiation and execution of the DDA (and the Agreement to Negotiate and Memorandum of Understanding which were merged with and integrated into the DDA) and the negotiation of all related attachments or documents required, contemplated or in furtherance thereof (including the Lease, REA, Parking Agreement, and leases and agreements with the Majors) (such related documents are hereinafter collectively referred to as the "Project Documents");
  - (ii) Investigation of the Project and the Project property including all studies, surveys, statistical and marketing analyses and projections, soils, toxics and building reports and inspections;
  - (iii) EIR for the Project;
  - (iv) investigation and development of conceptual plans, schematics, working drawings, and preliminary plans and specifications for the Project;
2. Consideration paid by the Developer in connection with the DDA and Ground Lease including:
  - a. The initial deposit of \$125,000 paid by Developer to Agency under the Agreement to Negotiate;
  - b. The extension deposit of \$200,000 if paid by Developer pursuant to Section 206.1 of the DDA;

- c. The Developer's Consideration of \$7,780,000 described in DDA Section 107 (whether or not payment thereof is reduced by the credits shown on DDA Attachment 5).
3. Costs, expenses or fees related to the development, design and construction of the improvements for the Mall Component Parcel including without limitation:
- a. All direct costs of construction of onsite and offsite improvements such as contractor fees, grading, excavation, soil removal, fill and site preparation, buildings, plumbing, onsite and offsite utility installation, foundations, landscaping, fencing, sidewalks, street improvements and other required governmental improvements; and
  - b. All indirect development, design and construction costs including:
    - (i) Construction, short term, interim and permanent lenders' commitment fees, origination fees, processing fees, construction fund disbursement fees, borrower's and lender's legal fees, survey and appraisal fees, and so called "points" (including all fees, points and interest paid by Developer to maintain the Developer's Deposit and/or Letter of Credit described in DDA Sections 106 and 107, respectively).
    - (ii) Architectural fees, costs of preparing plans and specifications, surveyors' fees and soils and other engineering fees;
    - (iii) Attorneys, economists and other consultant's fees not otherwise described above relating to the negotiation, execution and documentation of the development, construction and design of the Project;
    - (iv) Hazard, liability and other insurance premiums (including Builders All-Risk and payment and performance bond premiums);
    - (v) Construction, progress and inspection fees, appraisal fees, construction cost analysts' fees, building permit fees, plan check fees, connection fees, subdivision fees, school fees, traffic fees, zoning fees and related application fees, area fees, clean up costs, EIR mitigation and CEQA

compliance fees and costs, and all other fees and costs required by the requisite governmental agencies to cause construction of or allow occupancy of the Retail Center improvements;

- (vi) Onsite superintendent and construction management salaries;
- (vii) Real estate taxes and assessments from Close of Escrow through the completion of construction;
- (viii) Construction related casualty losses and expenses not compensated by insurance; and
- (ix) Developer's fees (whether or not paid to an affiliate of Lessee) as follows:

Amounts paid or incurred by Developer in connection with management and administration of the Project through Close of Escrow and construction management and administration thereafter except as demonstrated by Agency to be unreasonable and substantially inconsistent with industry practice.

- (c) All related development and construction costs including compliance with Conditions of Approval and payments by Developer described in the Scope of Development not otherwise described above including but not limited to Developer's costs for Demolition, Restoration, Utility Relocation and other Conditions of Approval.
  - (d) All other costs and expenses customarily funded through a construction loan by an Institutional Lender or Institutional Investor.
4. All costs, expenses or fees paid or incurred by Lessee to design, prepare, promote, staff, equip and open the Mall Component Parcel of the Retail Center for business including:
- (a) Advertising and marketing expenses, architectural and design services, graphic consultants, lighting consultants, archaeological consultants, acoustics, landscape, kitchen, laundry, parking, elevator, energy, audio-visual and restaurant consultants;
  - (b) Accounting, word and data processing equipment, telephone, security and communication systems;

- (c) Leasing fees, commissions and related lease-up expenses (including without limitation advertising, promotion and the cost of tenant improvements);
  - (d) Initial inventories of mechanical supplies, stationery and cleaning supplies;
  - (e) Initially installed fixtures, furnishings and equipment;
  - (f) Pre-opening marketing, advertising and promotional expenses; and
  - (g) All other pre-opening expenses, including staffing.
5. The excess of operational expenses (including without limitation taxes and assessments, interest, utilities, insurance, repairs, maintenance, legal accounting management and other professional fees, wages and benefits and rental payments paid or accrued hereunder) over income from operations following the initial completion of the Mall Component Improvements.
6. All costs, expenses or fees related to the implementation of and compliance with the DDA and the execution and implementation of and compliance with the Project Documents, including without limitation all escrow costs, e.g., escrow and recording fees, title insurance premiums and transfer taxes.
7. All costs, expenses or fees related to the development, design and construction of the Lot 1 Parking Structure (without reduction for all or any portion of the \$4,000,000 Agency Parking Contribution to be paid by Agency to Developer) including without limitation those costs, expenses and fees described in the categories of costs, expenses and fees set forth in paragraph 3 above, and including interest thereon as provided in paragraph 11 below.
8. All costs, expenses or fees related to the incorporation or proposed incorporation of the Rehabilitation Parcels described in the DDA into the Project whether or not the same are actually included in the Project, including all costs, expenses or fees in the (i) negotiation, execution and of compliance with all documents related thereto; (ii) investigation of said properties including all studies, surveys, statistical and marketing analyses

and projections, soils, toxics and building reports and inspections; (iii) investigation and development of conceptual plans, schematics, working drawings, and preliminary plans and specifications for said properties.

In the event Lessee enters into an agreement with the owners of the Rehabilitation Parcels which would provide for the integration of said parcels into the Project, Lessee's Project Costs shall include all costs, expenses or fees related to the development, design and construction of the Rehabilitation Parcels, including, without limitation, such costs, expenses and fees described in the categories of costs set forth in paragraph 3 above, and including interest thereon as provided in paragraph 10 below.

9. All costs, expenses or fees related to the preparation and negotiation of the Easements, Covenants and Restrictions Agreement ("ECR") with the owners of parcels which are contiguous to the Lease Premises.
10. Interest on the foregoing Project Costs, from the date expended through the Base Year, at the rate of interest of 10% per annum until Close of Escrow and at the construction loan rate of interest thereafter on the loan funding such Project Costs.
11. The Lessee's Project Costs shall be reduced upon the payment to Lessee (or to Agency directly) of the following when and as received by the Developer (or Agency if applicable):
  - (a) Contribution by Nordstrom toward the Developer's Consideration of \$1,600,000;;
  - (b) Contribution by Broadway toward the \$7,780,000 Developer payment to Agency, the hard and soft costs of constructing the Lot 1 Parking Structure, offsite utilities, traffic fees and EIR and related Project expenses; and
12. Expenditures by Agency (which are not reimbursed to Agency by Developer) and reimbursements to Developer for those certain costs and expenses described in the Scope of Development shall not constitute a Project Cost. In addition, the costs and expenses of the Lot 1 Parking Structure shall constitute a Project Cost without reduction regardless of whether Agency makes the \$4,000,000 Parking Contribution pursuant to the Parking Agreement.

The following costs, although not included in the Lessee's Project Costs, are amounts which may be included in any loans which are secured by the Lease Premises:

1. The \$2,000,000 Developer Loan described in DDA Section 201.

Major Tenant Project Costs. The Project Costs of each Major shall include but shall not be limited to, the categories of costs, expenses or fees described as the Lessee's Project Costs which are paid by the Majors for or related to development of each Major's Parcel.

## INTEGRATION

### Right to Integrate

In the event Lessee acquires any Contiguous Parcel, or a substantial interest therein, Lessee shall have the right, as between Lessee and Agency, to integrate such Contiguous Parcel into the Retail Center, including the grant of rights under the REA including but not limited to the rights, in common with other Occupants of the Center, for pedestrian, service, utility and other access over the Common Areas and use of the Onsite and Offsite Appurtenant Parking. Agency agrees to join in reasonable amendments to the REA and other applicable documents of record to achieve such integration at such time as requested by Lessee but not prior to the execution of the Integration Agreement (as defined below) between Lessee and Agency.

### General Terms of Integration; Integration Report

Lessee shall provide Agency (prior to the date Agency must make the election as to whether the Alternative Rental Calculation will be used with respect to a Contiguous Parcel acquired by Lessee [the "Election Date" as described below]), with all of the following:

- (a) description of Contiguous Parcel to be acquired or already acquired;
- (b) intended use of the Contiguous Parcel including general extent and timing of proposed renovations;
- (c) marketing plan for the Contiguous Parcel;
- (d) date of acquisition or proposed acquisition date.

Within sixty (60) days after delivery of the foregoing items, which may be delivered prior to Lessee's acquisition of the Contiguous Parcel, Agency and Lessee shall enter into a written agreement ("Integration Agreement") providing, in detail, for the following:

(i) The right of Lessee to integrate the Contiguous Parcel into the Retail Center as generally described above;

(ii) The right of Agency to a one time election to have income from the Contiguous Parcel which is the subject of the Integration Agreement used in the Alternative Rental Calculation to determine Annual Rent under this Lease.



(iii) The method for determining the Alternative Rental Calculation using the guidelines hereinafter described.

#### Election Date

The Integration Agreement shall provide that Agency must make its election, at the expiration of the fifth (5th) anniversary of the later to occur of (1) the date title to the Contiguous Parcel passed, of record, to Lessee, (2) the date the improvements in the Participation Rent Area are completed and the Retail Center opens for business, or (3) completion of renovation of the Contiguous Parcel and its opening for business with any tenant provided that for the later date in this clause (3) to be used Lessee must have closed the Contiguous Parcel sometime during the first twelve (12) months after acquisition and thereafter commenced such renovations (such fifth (5th) anniversary is herein referred to as the "Election Date").

#### Effect of Election

The Integration Agreement shall provide that if Agency makes the election on or before the Election Date, Agency and Lessee shall enter into an amendment to this Lease which will provide for the Alternative Rental Calculation to be used to determine Annual Rent under this Lease commencing with the first calendar year (the "Alternative Rental Calculation Commencement Year") following the Election Date with respect to such Contiguous Parcel. If Agency does not make the election by the Election Date, Lessee shall, nevertheless, have the right to keep the Contiguous Parcel integrated with the Leased Premises as an integrated shopping center but Annual Participation Rent shall be calculated as provided in Article 3 without reference to the Contiguous Parcel or consideration of income therefrom.

#### Alternative Rental Calculation

The Integration Agreement shall provide for the method of determining the Alternative Rental Calculation, the final form of which and definitions relative thereto are to be agreed upon. Generally, the Annual Rent will be determined as follows: Annual Rent for each calendar year commencing with the Alternative Rental Calculation Commencement Year and each year thereafter so long as Lessee continues to have a substantial interest in the Contiguous Parcel, shall be the greater of: (a) Annual Participation Rent for the Participation Rent Area calculated pursuant to Article 3 without reference to the Contiguous Parcel; or (b) the Alternative Rental Calculation.

The Alternative Rental Calculation is the sum of:

(i) Annual Participation Rent calculated in the manner set forth in Article 3 on Adjusted Gross Receipts from the Participation Rent Area for any calendar year until Adjusted Gross Receipts are equal to the Adjusted Gross Receipts actually received for the calendar year in which the Election Date occurs ("Second Level Base Amount"); plus

(ii) The Composite Percentage (as determined in the manner described below) of the amount by which Adjusted Gross Receipts from the Participation Rent Area in any calendar year exceeds the Second Level Base Amount; plus

(iii) The Composite Percentage of the amount by which Adjusted Gross Receipts for any calendar year from the Contiguous Parcel exceeds the Adjusted Gross Receipts from the Contiguous Parcel for the calendar year in which the Election Date occurs ("Contiguous Parcel Base Amount").

The Composite Percentage shall be determined by multiplying the applicable participation percentage (e.g., 20% for (ii) above) by the following factor:

$$1 - \frac{\text{Contiguous Parcel Base Amount}}{\text{Contiguous Parcel Base Amount} + \text{Second Level Base Amount}}$$

Example 1: Assume the following facts:

Participation Rent Area

Base Amount	\$3,400,000
Adjusted Gross Receipts in 1996	\$4,500,000
Adjusted Gross Receipts in 1997	\$5,000,000
Adjusted Gross Receipts in 1998	\$5,200,000

Contiguous Parcel

Adjusted Gross Receipts in 1996	\$ 500,000
Adjusted Gross Receipts in 1997	\$ 600,000
Adjusted Gross Receipts in 1998	\$ 650,000

Elections

Contiguous Parcel Election Date 1996  
Agency elects to include Alternative Rental Calculation

Assuming the above facts, the Alternative Rental Calculation for 1997 would be:

$$1 - \frac{\text{Contiguous Parcel Base Amount}}{\text{Contiguous Parcel Base Amount} + \text{Second Level Base Amount}}$$

$$1 - \frac{\$500,000}{\$500,000 + \$4,500,000}$$

$$1 - .1 = .9$$

$$\text{Composite Percentage} = 20\% \times .9 = 18\%$$

Therefore, the Alternative Rental Calculation in 1997 would be:

Sum of Participation Rent Area

$$(i) \quad 20\% \times (\$4,500,000 - \$3,400,000) = \$220,000$$

$$(ii) \quad 18\% \times (\$5,000,000 - \$4,500,000) = \$90,000$$

Contiguous Parcel

$$(iii) \quad 18\% \times (\$600,000 - \$500,000) = \$18,000$$

$$\text{Total} = \underline{\underline{\$328,000}}$$

Annual Participation Rent without reference to the Contiguous Parcel =  $20\% \times (\$5,000,000 - \$3,400,000) = \$320,000$

Annual Rent is equal to the greater of \$320,000 or \$328,000 = \$328,000

Additional Contiguous Parcels

The Integration Agreement for a Second Contiguous Parcel shall provide for the effect of adding such additional Contiguous Parcel by providing for additional Base Amount Levels and Composite Percentages for Adjusted Gross Receipts above these new Base Amount Levels. For example, upon addition of a Second Contiguous Parcel, the Composite Percentage in (ii) above (18% in our example) would apply only up to a "Third Level Base Amount" (which would be the Adjusted Gross Receipts for the Participation Rent Area in the calendar year of the Second Contiguous Parcel's Election Date) and a new Composite Percentage would need to be determined for Adjusted Gross Receipts in excess of the Third Level Base Amount for on Participation Rent Area. Similarly, for the first Contiguous Parcel a Second Level Base Amount and new Composite Percentage would need to be determined and applied for Adjusted Gross Receipts above the new Second Level Base Amount. The factor to determine the Composite Percentage

resulting from the addition of the Second Contiguous Parcel would be as follows:

(a) Factor =  $1 - \frac{\text{2nd Contiguous Parcel Base Amount}}{\text{2nd Contiguous Parcel Base Amount} + \text{1st Contiguous Parcel Second Level Base Amount} + \text{Participation Rent Area Third Level Base Amount}}$

(b) 2nd Contiguous Parcel Base Amount = Adjusted Annual Gross Receipts of the 2nd Contiguous Parcel for the calendar year in which the Election Date for the 2nd Contiguous Parcel occurred.

(c) 1st Contiguous Parcel Second Level Base Amount = Adjusted Gross Receipts of 1st Contiguous Parcel for the calendar year in which the Election Date for the 2nd Contiguous Parcel occurred.

(d) Participation Rent Area Third Level Base Amount = Adjusted Gross Receipts of Participation Rent Area for the calendar year in which the Election Date for the 2nd Contiguous Parcel occurred.

Example 2:

Assume the same facts as in Example 1 above; plus:

2nd Contiguous Parcel

Adjusted Gross Receipts 1997 =	\$700,000
Adjusted Gross Receipts 1998 =	\$800,000

Election

Agency Election Date 1997

$$\text{Factor} = 1 - \frac{\text{Second Contiguous Parcel Base Amount}}{\text{Second Contiguous Parcel Base Amount} + \text{First Contiguous Parcel Second Level Base Amount} + \text{Participation Rent Area Third Level Base Amount}}$$
$$\text{Factor} = 1 - \frac{\$700,000}{\$700,000 + \$600,000 + \$5,000,000}$$
$$\text{Factor} = 1 - .111 = .889$$
$$\text{New Composite Percentage} = 18\% \times .889 = 16\%$$

Annual Rent in 1998 would equal:

Participation Rent Area:

- (i) 20% of \$4,500,000 - \$3,400,000  
(Base Amount) = \$220,000; plus
- (ii) 18% of \$5,000,000 - \$4,500,000  
(Second Level Base Amount) = \$ 90,000; plus
- (iia) 16% of \$5,200,000 - \$5,000,000  
(Third Level Base Amount) = \$ 32,000; plus

First Contiguous Parcel:

- (iii) 18% of \$600,000 - \$500,000  
(Base Amount) = \$ 18,000; plus
- (iiia) 16% of \$650,000 - \$600,000  
(Second Level Base Amount) = \$ 8,000; plus

Second Contiguous Parcel

- (iv) 16% of \$800,000 - \$700,000  
(Base Amount) = \$ 16,000

Total = \$384,000

Annual Rent for 1998 is \$384,000 since it is the greater of:

- (a) 20% of \$5,200,000 - \$3,400,000 = \$360,000; or
- (b) \$384,000 (Alternative Rental Calculation)

[The foregoing procedure would be repeated for each additional Contiguous Parcel added.]

Calculations

The Integration Agreement shall provide for definitions of Adjusted Gross Receipts for the Contiguous Parcels using definitions of this Lease as a guide.

Sale, Condemnation or Other Disposition

The Integration Agreement shall provide for the effects upon the Alternative Rental Calculation upon a sale, condemnation or other disposition of any Contiguous Parcel by Lessee.

### Adjustments

The Integration Agreement shall provide for adjustments to the Second Level Base Amount, Third Level Base Amount etc. upon the happening of any events to the Participation Rent Area which would cause an adjustment to the Base Amount under the existing terms of this Lease; moreover, it shall provide for similar adjustments to the Contiguous Parcel Base Amount (Second Level Base Amounts and so on) upon the happening of similar events with respect to each of the Contiguous Parcels.

### Contiguous Parcel Rights

The Integration Agreement shall provide that Agency shall have no interest in the Contiguous Parcel or rights restricting transfer, leasing or otherwise; its rights being limited to an Alternative Rental Calculation under this Lease.

### Information to be Furnished

The Integration Agreement shall provide that at least ninety (90) days prior to the Contiguous Parcel Election Date, Lessee is to provide the following:

1. A summary history of the Adjusted Annual Gross Receipts, as defined, for gross participation revenue of the Retail Center by year.
2. A narrative of the sources of revenue and current status of all leases.
3. A lease summary indicating current lease terms, contemplated expiration dates, rental increases, etc.
4. The status of lease negotiations for any currently unrented space.
5. A set of computations presenting the results of the formula for determination of the possible Agency participation.

### Participation Rent Minimum

The Integration Agreement shall provide that there will be no Annual Participation Rent Minimum with respect to any Contiguous Parcel.

### Acquisition

Acquisition of a Contiguous Parcel or substantial interest therein shall mean acquisition of a fee simple interest, long-term lease (more than 15 years with options considered) or acquisition of an interest in an entity which

acquires such fee or leasehold estate where Lessee has controlling interest in such entity. However, Lessee may not enter into an agreement with owners of Contiguous Parcels other than an ECR pursuant to which Lessee would obtain fees or compensation (other than the share of Common Area Maintenance Charges and other cost sharing) without the consent of the Agency.